



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. CALIFORNIA STATE LANDS COMMISSION

#### BALLAST WATER MANAGEMENT FOR CONTROL OF NONINDIGENOUS SPECIES

##### NOTICE OF PROPOSED REGULATORY ACTION

The California State Lands Commission (the Commission) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

##### PROPOSED REGULATORY ACTION

The Commission proposes to amend Section 2271 under Article 4.5 in Title 2, Division 3, Chapter 1 of the California Code of Regulations (C.C.R.). This section would amend the fee to be paid by vessels calling at California ports (the Fee). The Fee is to be used for the Exotic Species Control Fund (the Fund) under Division 36 of the Public Resources Code (P.R.C.) entitled, "Ballast Water Management for Control of Nonindigenous Species," established under Chapter 849, Statutes of 1999 (the Act). The proposed regulation would reduce the Fee from four hundred dollars (\$400) per vessel per voyage to two hundred dollars (\$200) per vessel per voyage if the vessel has traveled outside the United States' Exclusive Economic Zone (the EEZ). Provisions are also included whereunder the Commission's Executive Officer would appoint a technical advisory group (TAG) to provide recommendations with regard to the Fee.

##### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5:00 p.m. on June 25, 2002. All written comments must be received at the Commission, by that time. Written comments should be submitted to:

John H. Kloman  
Supervisor, Planning Branch  
California State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, CA 90802

##### PUBLIC HEARING

The Commission has not scheduled a public hearing on this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

##### AUTHORITY AND REFERENCE

P.R.C. Section 71207 describes the State program to regulate discharges of ballast water in order to limit the introduction of nonindigenous species. In enforcing the provisions of the Act, the Commission is authorized to adopt the proposed regulations, which would implement, interpret or make specific P.R.C. Section 71215.

##### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

P.R.C. Section 71215, which became effective January 1, 2000, created the Fund and requires the Commission to establish a reasonable and appropriate Fee to carry out the activities required by the Ballast Water Management Program. It also mandates that the Fee may not exceed one thousand dollars (\$1,000) per vessel voyage. Under P.R.C. Section 71200(j), a voyage is defined as any transit by a vessel destined for any California port from a port or place outside the United States' EEZ, including intermediate stops at a port or place within the EEZ. For the purposes of the Act, a transit by a vessel from a United States port to any other United States port, if at any time the vessel operates outside the EEZ or equivalent zone of Canada, is also a voyage.

Accordingly, the proposed regulation would amend the Fee requirement under P.R.C. Section 71215(b)(1). The Fee is required to fulfill the specific multi-agency tasks mandated by the Act. However, the current Fee amount (\$400 per vessel per voyage) is projected to far exceed the budget needs of the programs. Section 2271(a) of the CCR would set the exact amount of the fee to be used to support the programs required under the Act at two hundred dollars (\$200) per vessel voyage.

##### DIFFERENCES FROM FEDERAL REGULATIONS

Recognizing the severity of the problem, the federal government implemented a National ballast water exchange and reporting program in July 1999, but it is voluntary for vessels entering the United States and consists of little more than information gathering at the present time. The Federal monitoring program provides for review of shipboard ballast exchange records and selective ballast water sampling. The Federal program does not contain a mechanism to research alternative methods of ballast water management. The state program established a mandatory, statewide,

multi-agency ballast water management and control program. Responsible agencies include the Commission, Department of Fish and Game, State Water Resources Control Board and the Board of Equalization. Each agency is required to work in cooperation with the others in developing reports and conducting research into the extent of current invasions, and potential long-term solutions to the problem of nonindigenous species introductions. All the activities required by the Act are paid for through the Fund.

#### **SMALL BUSINESS DETERMINATION**

The Commission has determined that these regulations do not affect small businesses as defined in Government Code (Gov. C.) Section 11342(h), because all affected businesses are commercial maritime transport owners and operators, as specified under Gov. C. Section 11342(h)(2)(H), and having annual gross receipts of more than \$1,500,000, as specified under Gov. C. Section 11342(h)(2)(I)(vii).

#### **ESTIMATED COSTS TO THE STATE**

No costs to the State would be incurred in implementing and enforcing these proposed regulations beyond those collected in the Fund. Since the regulation here proposed is limited to amending a fee to pay for programs already mandated by the Act; the regulations will not increase costs to the State. While the various programs mandated under the Act are estimated to cost approximately \$1,800,000 each year until the Act expires under its current terms, all of those programs are mandated by the Act; none can be attributed to the regulatory action here proposed. Under this proposal, the Fee would be set at a level that is expected to provide revenues equal to costs required to implement the Act. No costs will be incurred by the State in implementing any or all programs mandated by the Act beyond the amounts generated through collection of the Fee.

#### **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: None.

Costs or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Part 7 (commencing with section 17500) of Division 4 of the Government Code. None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Costs or savings in federal funding to the state: None.

Cost impact on private persons or directly affected businesses: All vessel owners or operators affected by

the proposed amended regulation will be required to pay a fee of two hundred dollars (\$200) per vessel voyage.

Creation or elimination of jobs within the State of California: The Commission has determined that the proposed regulations will not have a significant impact on the creation or elimination of jobs within the State of California.

Creation of new businesses or the elimination of existing businesses within the State of California: The Commission has determined that the proposed regulations will not have a significant impact on the creation or elimination of businesses within the State of California.

Expansion of businesses currently doing business within the State of California: The Commission has determined that the proposed regulations would not have a significant impact upon expansion of businesses currently doing business within the State of California.

The Commission has determined that the action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearings or during the written comment period.

#### **CONTACT PERSON**

Inquiries concerning the substance of the proposed action may be directed to:

Maurya Falkner  
Staff Environmental Scientist  
State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, 90802  
Telephone: (562) 499-6312

Or to:

Mark A. Meier  
Senior Staff Counsel  
State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825-8202  
Telephone: (916) 574-1853

Requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should be directed to:

John H. Kloman  
Supervisor, Planning Branch  
California State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, CA 90802

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at either of the above addresses. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting John H. Kloman at the address or telephone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the hearing, the Commission may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of John H. Kloman at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Kloman at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at [www.slc.ca.gov](http://www.slc.ca.gov).

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

#### ADOPTION

##### MULTI-COUNTY:

Cascade Pacific Library Network

A written comment period has been established commencing on **May 10, 2002** and closing on **June 24, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 24, 2002**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.



#### **COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### **EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### **AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 1408.3 of the regulations in Title 3 of the California Code of Regulations pertaining to the testing procedures used to determine the percent of dry matter contained in sample avocados.

Notice is also given of a written public comment period. Any interested person may present statements or arguments in writing relevant to the proposed regulation until 4:30 p.m. on June 24, 2002. Please refer to the contact section of this notice for the contact persons and address information when submitting comments.

A public hearing is not scheduled but will be if any interested person, or his or her duly authorized representative, submits a written request for public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing (if one is requested) or following the written comment period (if no public hearing is requested), the Department of Food and Agriculture, upon its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

#### **INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW**

Section 1408.3 describes the method used to obtain avocado portions for testing and how to calculate the percent of dry matter. The existing method requires that the avocado be cut lengthwise into eighths. From these pieces, two opposing eighths are selected, placed into a food processor and reduced to particles no larger than 1/8 inch.

This proposal would replace the above procedures by requiring the removal of a core specimen from a sample of avocados for determining the percent of dry matter using procedures as prescribed. In addition, editorial amendments will be made to Sections 1408.3 and 1408.6.1 for consistency within the regulations and to correct citations of authority.

#### **FISCAL IMPACT STATEMENTS**

The Department has initially determined that these proposed regulations will have no effect on savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also initially determined that these proposed regulations do not impose a mandate on local agencies or school districts.

#### **EFFECT ON SMALL BUSINESS**

The Department has initially determined that these proposed changes in the regulations would not affect small businesses. This is due to the fact that the proposed regulations merely change the existing procedures used by enforcement personnel in determining the percentage of dry matter contained in a sample of avocados.

**EFFECT ON HOUSING COSTS**

The Department has initially determined that the amendment of the proposed regulations will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY  
AFFECTING BUSINESS**

The Department initially determined that the proposed changes will have no significant statewide adverse economic impact directly affecting businesses, including the ability for California businesses to compete with businesses in other states.

**ASSESSMENT STATEMENT**

The Department has initially determined that the proposed changes in the regulations would not affect the creation or elimination of jobs in California and would neither create nor eliminate or expand existing businesses in California.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESS**

The Department is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ALTERNATIVES**

The Department has initially determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

**AUTHORITY AND REFERENCE**

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 42681, 42684, and 44988 of the Food and Agricultural Code, and to implement, interpret, and make specific Sections 42941 and 44971 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

**CONTACT**

Inquiries concerning the proposed administrative action may be directed to Sonja Dame or Donella Boreham. Inquiries pertaining to the substance of the proposed regulation may be directed to Donella Boreham. Sonja Dame may be reached at the Department of Food and Agriculture, Fruit, Vegetable, and Egg Quality Control Branch, 1220 N Street, Room A-447, Sacramento, CA 95814, (916) 654-0919, fax (916) 654-0666. Donella Boreham may be reached

at Department of Food and Agriculture, Avocado Inspection Program, 326 State Place, Escondido, CA, 92029, (760) 743-4712, fax (760) 747 2279. Comments may also be submitted via e-mail at [sdame@cdfa.ca.gov](mailto:sdame@cdfa.ca.gov).

**AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS**

A complete copy of existing regulations, the proposed changes, and the Initial Statement of Reasons may be obtained on request from the Department of Food and Agriculture. These documents are also available on our website at [www.cdfa.ca.gov/cdfa/regs](http://www.cdfa.ca.gov/cdfa/regs).

In addition, all information, including reports, documentation, and other materials (rulemaking file) related to the proposed action is available upon request from the agency contact persons named in the notice. The Final Statement of Reasons, when available, may also be obtained from the agency contact persons named in the notice. The text of the proposed regulations with any sufficiently related changes clearly indicated will be made available for 15 days prior to adoption.

**TITLE 3. DEPARTMENT OF  
FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before June 24, 2002.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish,

maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

Existing Section 3423 established an interior quarantine against Oriental fruit fly, provided that portions (approximately 52 square miles) of San Bernardino County surrounding the Ontario area are under quarantine for Oriental fruit fly, set forth the hosts, restricts the movement of hosts and possible carriers of Oriental fruit fly from the area under quarantine and provided for special permits to allow movement of articles and commodities otherwise prohibited. This amendment of Section 3423(b) removed the quarantine area for Oriental fruit fly surrounding the Ontario area of San Bernardino County. The effect of the amendment is to remove authority for the State to regulate movement of hosts and possible carriers of Oriental fruit fly within and from the area under quarantine because the fly has been eradicated from that area and the quarantine is no longer necessary for the protection of California's agricultural industry. The proposed action does not differ from any existing, comparable federal regulation or statute.

#### **COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 177561 of the Government Code because this amendment removes the portion of San Bernardino County that was in the area under quarantine from the regulation; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of this area (Ontario) from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

#### **EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed action will not affect housing costs.

#### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting

California businesses, including the ability of California businesses to compete with businesses in other states.

#### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### **ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department proposes to amend Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

#### **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

#### **EFFECT ON SMALL BUSINESS**

The amendment of this regulation may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov). In his absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.



#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdffa.ca.gov/cdfa/pendingregs](http://www.cdffa.ca.gov/cdfa/pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations repealed by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of repeal. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency regulation. The Department proposes to continue the regulations as amended.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before June 24, 2002.

#### INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of

California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law provides that the Secretary may establish, maintain, and enforce such quarantine regulations as he deems necessary to circumscribe and exterminate or prevent the spread of pests to protect California's agricultural industry.

Existing regulations established a portion of San Diego County in the San Diego area and a portion of San Bernardino County in the Ontario area as the quarantine area for Oriental fruit fly. This amendment removed the quarantine area for Oriental fruit fly of approximately 67 square miles surrounding the San Diego area of San Diego County. The effect of the amendment is to remove authority for the State to regulate movement of hosts and possible carriers of Oriental fruit fly within and from the San Diego area, because it is no longer necessary to protect California's agricultural industry since the fly has been eradicated from that area. The proposed action does not differ from any existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment removed a portion of San Diego County that was in the area under quarantine; therefore, enforcement will no longer be necessary. There are no mandated costs associated with the removal of the San Diego area from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

The agency is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

**ASSESSMENT**

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

**ALTERNATIVES CONSIDERED**

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AUTHORITY**

The Department amended Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302, and 5322 of the Food and Agricultural Code of California.

**REFERENCE**

The Department amended Section 3423(b) to implement, interpret and make specific Sections 5301, 5302, and 5322 of the Food and Agricultural Code.

**EFFECT ON SMALL BUSINESS**

The amendment of this regulation may affect small businesses.

**CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Barbara J. Hass, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [bhass@cdfa.ca.gov](mailto:bhass@cdfa.ca.gov). In her absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Barbara J. Hass.

**INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

**TITLE 10. DEPARTMENT OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**RH02020999**

**DATE: April 26, 2002**

**SUBJECT OF PROPOSED RULEMAKING**

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to amend Title 10, Chapter 5, Subchapter 4.8, Articles 6, and 8, and Subchapter 4.9 as well as Title 10, California Code of Regulations, Chapter 5, Subchapter 7.71<sup>1</sup>. The amendments to the regulations will codify practices that are already in use to enable the commencement of a rate hearing within 180 days of the application for a rate increase, to facilitate the approval of settlements, to put a time limit on the final decision of the Commissioner and to realize other procedural efficiencies.

**PUBLIC HEARING**

A public hearing has been scheduled in connection with this proposed action. A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, regarding these proposed amendments to regulations. The hearing will be held:

Date and Time: July 11 at 9:00 am

Location: Department of Insurance  
Hearing Room

45 Fremont Street, 22nd Floor  
San Francisco, CA 94105

Date and Time: July 12 at 9:00 am  
Location: Ronald Reagan State Office  
Building  
300 South Spring Street  
Ground Floor Hearing Room  
Los Angeles, CA 90013

These hearings will continue on the dates noted until all testimony has been completed or 4:00 p.m., whichever is earlier.

#### ACCESS TO HEARING ROOMS

The facilities to be used for the public hearings are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person listed below for these hearings in order to make special arrangements, if necessary.

#### AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code section 1861.08, with reference to Insurance Code section 1861.055. Insurance Code section 10089.11 also provides the authority for this rulemaking. The proposed regulations also clarify certain aspects of the interaction between the Insurance Code and the Government Code's Administrative Procedure Act. *Fireman's Fund Insurance Cos. v. Quackenbush* (1997) 52 Cal. App.4th 599 and *RLI Insurance Co. Group v. Superior Court* (1996) 51 Cal.App.4th 415 have clarified the law regarding the Commissioner's authority in certain respects and the proposed regulations delete certain provisions in light of this case law.

#### PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on June 28, 2002. Please direct all written comments to the following contact person:

Andrea Biren, Chief Administrative Law Judge  
California Department of Insurance  
45 Fremont Street, 22nd Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4246

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

George Teekell, Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4390

#### DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than 5:00 p.m. on June 28, 2002. Any written materials received after that time will not be considered.

#### COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: BirenA@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Andrea Biren and sent to the following facsimile number: (415) 904-5854. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Chapter 5, Subchapter 4.5, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address in order to inquire about the appropriate procedures:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person listed above. Please contact the Office of the Public Advisor for further information.

#### INFORMATIVE DIGEST

##### *Summary of Existing Law and Policy Statement Overview*

Pursuant to the initiative known as Proposition 103, a prior approval hearing must take place for certain applications for insurance rates (Ins. Code § 1861.08). Existing law includes certain regulations implementing the hearing requirement for Proposition 103 lines of insurance (Title 10, California Code of Regulations ("CCR"), Subchapter 4.8, Articles 6, and 8, and Subchapter 4.9) and earthquake insurance offered by the California Earthquake Authority (Title 10, California Code of Regulations, Subchapter 7.7.) The Insurance Commissioner has determined that certain



modifications to these regulations are necessary in order to effectively administer the hearing procedure. The amendments can be summarized as follows:

a. Under existing Title 10, CCR § 2648.3(c), a rate review hearing must start within 180 days of the date a rate application is received. Review and negotiations taking place between the applicant and the Rate Regulation Branch of the Department of Insurance can use up much of this 180 days. Even when this time limit is waived, the hearing may have to commence before final rulings on motions to compel discovery and motions to strike because the timeframes for those activities run from the notice of hearing, not the date the application is received. (See amounts of time given in existing Title 10, CCR §§ 2655.1 and 2655.6.) Because commencing the hearing before these activities are finished is inefficient, the administrative law judge (“ALJ”) has usually compressed the regulations’ timeframes for these activities. The proposed amendments codify the compressed timeframe by providing for mandatory document production with the rate application, shortening time for the production of documents in discovery and for the first submission of prepared testimony and motions to strike. However, the ALJ retains discretion to continue the hearing date for good cause shown.

b. Existing law creates another timing problem when the ALJ is writing the proposed decision. This timing problem arises from the overlap of statutes addressing when the ALJ proposed decision is due with regulations on getting additional evidence, taking official notice, scheduling oral argument, closing the record and declaring the matter submitted. Government Code § 11517(c) provides that the ALJ’s decision shall be prepared within 30 days after the case is *submitted*. Existing regulations say that the case is submitted after oral argument (Title 10, CCR § 2658.1). But Insurance Code § 1861.055(d) says that the ALJ’s decision shall be rendered within 30 days of the *closing of the record*. Since the record closes 15 days (not business days) after filing of reply briefs, for these two statutes to work harmoniously, there is an undesirable rush to oral argument. (Title 10, CCR § 2655.5(d).) However, if oral argument is desired, questions for the oral argument have to go out 10 days (not business days) before the oral argument. Thus, the judge is in the position of having to set an oral argument for 15 days after the filing of reply briefs in order to have the oral argument within the record. That means that questions must be composed and faxed out within the 5 days (not business days) after reply briefs are received. While this might work in some cases, in complex cases with lengthy briefs from multiple parties, the timeframe impinges too much

on the ALJ’s ability to prepare for oral argument. Meanwhile, requests for official notice can be made until the filing of reply briefs. (Title 10, CCR § 2655.10.) Therefore, an opposition to a request for official notice and a decision on whether to take official notice must also occur within this 15 day window. Also, occasionally an ALJ’s order for additional evidence may not be fulfilled until during this period. The multiple time constraints mean that the questions for oral argument, the preparation for oral argument and the preparation of the proposed decision after consideration of all the evidence are simply too compacted in complex cases. The proposed amendments to the regulations would move up the date for final requests for official notice and limit the time for refutation, allow the judge an extra 15 days within which to schedule oral argument, close the record and have the proceedings submitted. . .

c. Currently the regulations implicitly assume that cases are settled at some point after the judge has heard some evidence. (Title 10, CCR § 2656.2) In fact, most settlements occur in the time between the issuance of the Notice of Hearing and the first introduction of evidence. The judge has received no evidence on which to base a decision concerning whether the settlement is “in the public interest” or is “fundamentally fair, adequate and reasonable.” The proposed amendments to the regulations provide for submission of declarations in support of the settlement addressing the issues of public interest, fairness, adequacy and reasonableness.

d. The regulations do not currently require the Commissioner to act on the proposed decision, or issue his own decision, within any particular timeframe. While it is arguable that this result was intended by the drafters of Proposition 103, the public interest is better served by requiring a decision within a reasonable period of time.

e. The regulations do not currently require that the Department of Insurance Administrative Hearing Bureau (“AHB”) be separately notified of the appeal of a decision. A new regulation will require service on AHB of petitions for review of final decisions and the final court decision. This would ensure that the AHB, which functions independently from the Department’s Legal Division, knows when decisions are appealed and the outcome of that appeal.

f. Title 10, CCR §§ 2651.1, 2652.5, 2655.1, 2659.1, 2661.3, refer to the Administrative Law Bureau. Because all sections of the Department of Insurance deal with administrative law, the name of the adjudicative bureau has been changed. The references in the CCR need to be changed to the Administrative Hearing Bureau to avoid confusion.



# EFFECT OF PROPOSED ACTION

Overall, the proposed regulations will remedy the various problems identified above in the current regulations as well as other problems typically encountered in rate review cases. .

§ 2642.2 is modified to delete a subdivision that allows the Commissioner to give directions on a matter pending before an administrative law judge even when such direction has not been requested.

§ 2648.4 is modified to clarify that the Commissioner can request whatever documents are needed to perform a complete analysis of an application.

§§ 2651.1, 2652.5, 2655.1, 2659.1, and 2661.3 are modified to change Administrative Law Bureau to Administrative Hearing Bureau.

§ 2651.1 subdivisions (e) and (i) are modified to clarify that authorization by the administrative law judge is necessary before pleadings can be filed by facsimile or electronic transmission.

§ 2655.1 is modified to begin discovery with the Notice of Hearing, allow alternatives to traditional discovery, and compress the timeframes between actions during the discovery phase of the case.

§ 2655.6 is modified to require applicant's direct prepared testimony earlier and the time is shortened for filing a motion to strike, so that the motion will be ruled upon before other parties' testimony is due. Additionally, documents supporting a claim of expert status must accompany the prepared testimony.

§ 2655.5 is modified to clarify that the administrative law judge can request additional evidence until the record is closed and that all parties must have an opportunity to see and object to the additional evidence. The deadline to close the record is extended in order to allow for submission of additional evidence ordered by the ALJ both before and after oral argument as has sometimes been necessary.

§ 2655.10 is modified to require requests for official notice earlier in the process so that there is time to get objections and refutations before oral argument.

§ 2656.1 is modified to provide for notice to interveners of any stipulation or settlement and to clarify that declarations are required in support of the stipulation or settlement if there is no admitted evidence in the record. The amendments also clarify that both a stipulation and a settlement are subject to a hearing upon objection.

§ 2656.2 and 2656.3 are modified to clarify that the terms of a stipulation or settlement adopted by the ALJ must be included in a proposed decision to the Commissioner. Previously this subdivision was included in the section on rejection of a stipulation or settlement, which was confusing.

§ 2656.4 is modified in light of case law to delete the absolute prohibition on discovery or admissibility of information regarding approval of another insurer's application.

§ 2658.1 is modified so that it is clear that a proceeding is not submitted until all the argument and evidence is in and the ALJ has had a reasonable amount of time (15 days) to be sure that no additional evidence is needed.

§ 2659 is added to require the Commissioner to act on the proposed decision within 100 days, or the proposed decision is deemed adopted. The Commissioner also has the option of remanding for more evidence, or taking the evidence personally, and issuing a final decision after the augmentation of the record within an additional fixed timeframe.

§ 2660 is added to require service on the Administrative Hearing Bureau of any petition for review of the Commissioner's final decision and any final decision from a reviewing court.

Finally, § 2697.3 is modified to make it consistent with other rate hearings regarding when the time for decision begins to run. It is changed from date of submission to date the record is closed to ensure that all the argument and evidence is considered. Another proposed amendment to this section makes explicit the Insurance Code § 10089.11(d) exception to public availability of documents.

## MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

## ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Insurance Commissioner has made an initial determination that the amendments to these regulations may have a significant adverse economic impact on businesses, including the ability of California

businesses to compete with businesses in other states. The types of businesses that may be affected are insurers, and indirectly, independent agents and brokers. The projected compliance requirement is adherence to a shortened timeframe for various actions while litigating rate review cases. The Commissioner has not considered alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

#### **POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES**

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. All procedures now required were previously required; only the timeframe for accomplishing procedural steps has been changed.

#### **FINDING OF NECESSITY**

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses.

#### **EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA**

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

#### **IMPACT ON HOUSING COSTS**

The matters proposed herein will have no significant effect on housing costs.

#### **ALTERNATIVES**

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and

less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

#### **IMPACT ON SMALL BUSINESS**

The Commissioner has determined that the proposed amendments may indirectly affect small businesses to the extent independent agents and brokers (as opposed to those who are insurance company employees) qualify as small businesses. It is conceivable that if, as a result of the changes the proposed action makes in the way rate cases proceed to hearing, rate increases are approved faster, then independent agents and brokers may be able to sell fewer policies, to the extent consumers find the product less attractive on account of higher premiums.

#### **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### **TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS**

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed regulations. Upon request, the initial statement of reasons and the proposed text of the regulations will be made available for inspection and copying. Requests for the initial statement of reasons and/or the text of the proposed regulations or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons and/or rulemaking file will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons and/or rulemaking file should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

#### **AUTOMATIC MAILING**

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

#### **WEBSITE POSTINGS**

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the

page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH02020999" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "1861.08"), or search by keyword ("discovery," for example, or "testimony"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the 'Amendments to Procedural Regulations for Rate Cases' link, and click it. Links to the documents associated with these regulations will then be displayed.

#### MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

### **TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**

#### **NOTICE OF PROPOSED REGULATORY ACTION: AMEND REGULATIONS 1070 & 1082 RACIAL PROFILING COURSE INSTRUCTOR REQUIREMENT**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST), pursuant to authority vested by Section 13503 of the Penal Code (powers of the Commission on POST) and Section 13506 (authority for the Commission on POST to adopt regulations), and in order to interpret, implement and make specific Sections 13510 (authority of the Commission on POST to adopt and amend rules establishing minimum standards for California local law enforcement officers), and Section 13519.4 of the Penal Code which gives the Commission on POST the authority to develop a course of instruction for the training of law enforcement officers in

California racial profiling, proposes to adopt a regulation in Chapter 2 of Title 11 of the California Code of Regulations.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendment of regulations would require instructors of racial profiling training courses to have completed a POST-certified 24-hour Racial Profiling Instructor Workshop prior to instructing in this specialized topic area. The train-the-trainer workshop would be offered under the auspices of POST in cooperation with the Los Angeles Museum of Tolerance.

Specifically, the proposed amendment of Regulation 1070 adds the Racial Profiling Course to the list of specialized training courses requiring subject-specific instructor training. The Racial Profiling Course is being added because it addresses a practice, i.e., "racial profiling," that the Legislature has determined "presents a great danger to the fundamental principles of a democratic society." While training of peace officers in the subject of racial profiling has been required per Penal Code Section 13519.4 since 1993, the Legislature has recently enacted changes to this section requiring expanded training beginning in the year 2002.

The Racial Profiling Instructor Workshop is being added because of the complexity of the Racial Profiling Course subject matter and the necessity that the course's delivery be carefully guided. The proposed amendment of Regulation 1082 lists the topic areas to be addressed in the Racial Profiling Instructor Workshop. These topic areas are the product of collaboration among a five-member gubernatorially appointed panel, subject matter experts, instructional designers, and program evaluators who had observed pilot presentations of the Racial Profiling Course.

#### PUBLIC COMMENT

The Commission hereby requests written comments on the proposed actions. All written comments must be received at POST no later than 4:30 p.m. on June 24, 2002. Written comments should be directed to Kenneth J. O'Brien, Executive Director, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, fax number 916.227.2801, or email at [ken.obrien@post.ca.gov](mailto:ken.obrien@post.ca.gov).

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his or her duly authorized representative, may request in writing, no later than 15 days prior to the close of the public comment period, that a public hearing be held.



#### **ADOPTION OF PROPOSED REGULATIONS**

Following the close of the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period, and all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text is made available.

#### **TEXT OF PROPOSAL**

Copies of the Statement of Reasons and exact language of the proposed action may be obtained by submitting a request in writing to the contact person at the address below. This address also is the location of all information considered as the basis for these proposals. The information will be maintained for inspection during the Commission's normal business hours (8 a.m. to 5 p.m., Monday through Friday).

Copies of the Final Statement of Reasons, once it has been prepared pursuant to subdivision (a) of Section 11346.9, may be obtained at the address noted at the end of this notice.

#### **ESTIMATE OF ECONOMIC IMPACT**

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Fiscal impact is expected to be minimal and training costs will be shared among POST, presenters, and instructors.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, Including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with business in other states, and has found that the proposed amendment of Regulations 1070 and 1082 will have no affect on California business, including small businesses, because the Commission

on Peace Officer Standards and Training sets selection and training standards for law enforcement and does not impact California business, including small businesses.

Cost Impacts on Representative Private Persons or Business: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that representative private person or business would necessarily incur in reasonable compliance with this proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no affect on housing costs.

#### **ASSESSMENT**

The adoption of the proposed regulation revisions will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

#### **CONSIDERATION OF ALTERNATIVES**

In order to take this action, the Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### **CONTACT PERSON**

Inquiries concerning written material pertaining to the proposed action should be directed to Leah Cherry, Associate Governmental Program Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, or by telephone at 916.227.3891, fax number 916.227.3895, or email at [leah.cherry@post.ca.gov](mailto:leah.cherry@post.ca.gov). The back-up contact person as well as inquiries concerning the substance of the proposed action/text should be directed to Mike Hooper, Senior Consultant, at 916.227.3912, fax number 916.227.2801, or e-mail at [mike.hooper@post.ca.gov](mailto:mike.hooper@post.ca.gov).

#### **INTERNET ACCESS**

The Commission has posted on its Internet Website ([www.post.ca.gov](http://www.post.ca.gov)) the information regarding this proposed regulatory action. Select "Regulation Notices" from the topics listed on the Website home page.



## TITLE 22. DEPARTMENT OF CHILD SUPPORT SERVICES

### CASE CLOSURE

#### Proposed Permanent Regulations

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) has adopted these regulations on an emergency basis effective March 25, 2002; and now proposes to adopt them as permanent regulations amending Division 13 of Title 22 of the California Code of Regulations commencing with Section 110385. These regulations establish standards for the closure of child support services cases.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Federal regulation, 45 Code of Federal Regulations (CFR), Section 303.11, requires Title IV-D agencies to establish a system to close cases, and specifies the criteria under which Title IV-D cases may be closed. The regulation also outlines the conditions that must exist for a case to be eligible for closure under certain criteria. When a case is eligible for closure, under specified closure criteria the regulation requires the Title IV-D agency to notify the recipient of services in writing of the impending closure. The regulation also requires the Title IV-D agency to reopen a closed case upon request of the recipient of services, if certain conditions are satisfied, and mandates record retention and disposal requirements.

State law, Section 4506.2, Family Code, sets forth procedure for changing the payee on a lien placed against an obligor's real property when a local child support agency either takes over or relinquishes responsibility for enforcement of a child support case.

State law, Section 17502, Family Code, requires local child support agencies to make every reasonable effort to locate an obligee for six months, when the local child support agency has a collection for distribution to the obligee.

State law, Section 17523, Family Code describes how to file a lien on the personal property of a support obligor who is delinquent in the payment of child support.

State law, Section 17531, Family Code, requires local child support agencies to delete or purge from case files certain summary criminal history information, when a case is closed. The law also specifies the timeframe for destroying such information.

These regulations interpret, make specific and implement the state and federal laws and regulations cited above, and make the following changes to Title 22, California Code of Regulations.

### Chapter 1

#### Article 1. Definitions

- Sections 110385, 110449 and 110554 were adopted to define program terms and phrases of general applicability necessary for the administration of the child support program.

### Chapter 8

#### Article 1. Definitions

- Section 118020 was adopted to define a program term and phrase related to case closure.

#### Article 2. Case Closure

- Section 118203 was adopted to specify the requirements for case closure, including the requirements for: closing a case and reopening a closed case; record retention and disposal; and releasing, removing, rescinding and terminating establishment and enforcement actions when a case is closed.

Manual of Policies and Procedures Sections 12-229, 12-300, 12-301.0 through .3 and 12-302.0 through .5 have been repealed because the regulatory provisions previously contained in those sections have been modified and relocated to Articles 1 and 2 of Chapter 8.

### AUTHORITY AND REFERENCE CITATIONS

AUTHORITY: Sections 17306, 17310 and 17312, of the Family Code.

REFERENCE: Sections 581 and 582, Code of Civil Procedure; Sections 3602, 3760, 3761, 3901, 4007, 4506.2, 4901, 5208, 5237, 5240, 7613, 17310, 17312, 17502, 17516, 17523 and 17531, Family Code; Sections 6205 through 6211, Government Code; Section 11477.04, 11479 and 14008.6, Welfare and Institutions Code; 42 USC, Sections 407 and 666; 45 CFR, Section 303.11.

### PUBLIC COMMENT PERIOD

Written public comments presenting statements, arguments, or contentions relating to the text of the proposed regulations will be accepted for a period of forty-five (45) days beginning on May 10, 2002 and ending at 5 p.m. on June 24, 2002. Public comments will be accepted by any of the following means:

1. Mailed to:  
Dept. of Child Support Services  
Attn: Regulations Coordinator  
P.O. Box 419064  
Rancho Cordova, CA 95741-9064
2. Faxed to:  
Dept. of Child Support Services  
Attn: Regulations Coordinator  
(916) 464-5069

3. E-mailed to the Regulations Coordinator:  
Lucila.Ledesma@dcss.ca.gov

#### **PUBLIC HEARING**

No public hearing is scheduled. Pursuant to the provisions of Government Code Section 11346.8, any interested party may request that a public hearing be scheduled. The request must be in writing and received at the above addresses for the DCSS Regulations Coordinator no later than fifteen (15) days prior to the close of the public comment period.

#### **CONTACTS**

Copies of documents and general information regarding this rulemaking may be secured by contacting Lucila Ledesma the Regulations Coordinator at 916-464-5087.

In case you are unable to reach the Regulations Coordinator, the DCSS alternative contact person for general information about this rulemaking is Donna Hershkowitz at 916-464-5181.

If you have a substantive question regarding the content of this rulemaking, you may contact Eddie Yamamoto, supervisor of the Case Management Establishment Policy Section, at 916-464-5229.

#### **HOW TO GET COPIES OF RULEMAKING DOCUMENTS**

Copies of the full text of the proposed regulations, an initial statement of reasons, and all information on which this rulemaking is based may be secured from the DCSS Regulations Coordinator at the above addresses. Some of these documents are also available on the Department's public website at [www.childsup.cahwnet.gov/](http://www.childsup.cahwnet.gov/).

The full text of a regulation changed pursuant to Government Code Section 11346.8 will be available for at least fifteen (15) days prior to the date on which DCSS adopts the resulting regulation. During that period, it may also be secured from the DCSS Regulations Coordinator at the above addresses.

Once the final statement of reasons becomes available it may also be secured from the contact persons identified above or from the DCSS public website at [www.childsup.cahwnet.gov/](http://www.childsup.cahwnet.gov/).

#### **IMPACT ON INDIVIDUALS AND BUSINESSES**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California

businesses to compete with businesses in other states. These regulations impact the closure of child support services cases at the local child support agency.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small businesses. Small business would not be required to comply with or enforce these regulations nor are they expected to incur either benefits or detriments from them.

#### **LOCAL MANDATE**

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

#### **FISCAL IMPACTS**

- A. Fiscal Effect on Local Government: None.
- B. Cost or Savings to Any State Agency: Additional expenditures of approximately \$127, 000 in FY 2001-02. Costs to be absorbed within existing budgets and resources (provided in Item 5175-101-0001 Budget Act of 2001) or (Chapter 106, Statutes of 2001).
- C. Cost or Savings in Federal Funding to the State: Additional expenditures of approximately \$247,000 in FY 2001-02. Costs to be absorbed within existing budgets and resources (provided in Item 5175-101-0001 Budget Act of 2001) or (Chapter 106, Statutes of 2001).
- D. Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

#### **IMPACT ON HOUSING COSTS**

The Department has determined that these regulations will have no impact on housing costs.

#### **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these regulations.

# GENERAL PUBLIC INTEREST

## DEPARTMENT OF FISH AND GAME

### CONSISTENCY DETERMINATION

**Fish and Game Code Section 2080.1**

**Tracking Number 2080-2002-007-06**

**PROJECT:** Maintenance of Lower Los Serranos Storm Water Management Facility

**LOCATION:** City of Chino Hills, San Bernardino County

**NOTIFIER:** Glenn Lukos Associates, representing City of Chino Hills

### BACKGROUND

The proposed project would remove sediment and vegetation to restore the designed flood control capacity of the Lower Los Serranos Creek within the storm water management facility and eliminate the flooding of an adjacent sports park. The project is located in the lower Los Serranos Creek, a tributary to Chino Creek, immediately below the outlet of the underground portion of the Los Serranos Channel passing beneath State Route 71 (Corona Expressway). The site is located approximately 100 feet east of Pomona-Rincon Road, 0.8 mile north of Pine Avenue, and 1.3 miles south of Soquel Canyon Road.

In 2000, increased deposition of sediment and growth of vegetation within the project area prompted the City of Chino Hills' ("City") to begin removing sediment and vegetation from the facility. However, because permits were not obtained from the Department of Fish and Game ("Department"), U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service ("Service"), a Department warden stopped the removal.

Overall, the project will impact 3.03 acres of stream and associated riparian habitat—2.67 acres permanently. The area cleared initially in 2000 encompassed 1.21 acres, which included 1.18 acres of riparian habitat. Approximately 0.98 acres of this area has been proposed for future maintenance activities. The City also plans to clear an additional 1.69 acres of riparian habitat for maintenance. An additional 0.16 acre of stream and associated riparian habitat will be temporarily impacted because of the mitigation activities associated with habitat creation.

The Service found that the southern willow scrub and woodland riparian habitat affected by the project support the least Bell's vireo (*Vireo bellii pusillus*), which is listed as an endangered species under the federal endangered species act and the California Endangered Species Act (Fish & G. Code, § 2050 et seq. ("CESA")). Thus, this action would adversely

affect the least Bell's vireo and its habitat. On March 15, 2002, the Service issued Biological Opinion #FWS-SB-1739.4, describing the project actions and setting forth measures to mitigate impacts to the least Bell's vireo and its habitat. On March 28, 2002, the Director of the Department received a notice from Glenn Lukos Associates on behalf of the City seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the Federal biological opinion was consistent with CESA.

### DETERMINATION

After reviewing the above-referenced biological opinion and other relevant documents, the Department has determined that Biological Opinion #FWS-SB-1739.4 is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) for authorization of incidental take of species protected under CESA. Measures incorporated into the project and described in the biological opinion require the following:

1. A minimum of 9.22 acres of riparian habitat will be created adjacent to the project area as mitigation for impacts to 2.87 acres of stream and associated riparian habitat. Southern willow scrub, which would cover about two-thirds of the planted area, and freshwater marsh will dominate the new habitat. In addition, the new habitat will include a small area of coast live oak riparian forest and elderberry/mule fat scrub. The restoration effort shall be conducted as described in the Mitigation Plan prepared by Glenn Lukos Associates on July 10, 2001. The Mitigation Plan includes measures for controlling the presence of exotic plant, removing trash and debris, fencing off the site, restricting public access, posting information signs, replacing plants, quantitative monitoring, and adaptive management for potential erosion and vegetation losses (Glenn Lukos Associates July 10, 2001).
2. The restoration site will be monitored and managed until habitat is successfully restored. If the coverage requirements have not been met, the City of Chino Hills will be responsible for replacement plantings and/or earthwork to ensure successful restoration.
3. A conservation easement in favor of the Department, or another Department-approved entity, shall be established in perpetuity for the mitigation area. The Department shall approve the language of the easement.
4. Project-related activities will occur from September 16 through March 14, which is outside the least Bell's Vireo breeding season, or at least 500 feet away from an active least Bell's vireo nest.



The Terms and Conditions of the biological opinion also include measures to ensure that least Bell's vireo habitat is restored to adequately compensate for the impacts created by the proposed project.

Pursuant to section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for incidental take of least Bell's vireo as a result of the project. Any substantive changes to the project as described in the biological opinion, including changes to the mitigation measures, will require the notifier to obtain a new consistency determination or a CESA incidental take permit from the Department.

## **DEPARTMENT OF FISH AND GAME**

### **PUBLIC INTEREST NOTICE For Publication May 10, 2002**

#### **CESA CONSISTENCY DETERMINATION FOR Sonoma Creek Bridges Seismic Retrofit and Replacement Project Sonoma County**

The Department of Fish and Game ("Department") received notice on April 24, 2002 that the Sonoma County Permit and Resource Management Department proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the seismic retrofit of the Watmaugh Road Bridge over Sonoma Creek and the replacement of the Riverside Drive Bridge over Sonoma Creek. The activities will permanently impact approximately 90 linear meters (295 linear feet) of habitat along the Creek.

The U.S. Fish and Wildlife Service, on March 7, 2002, issued to the Federal Highway Administration (FHWA), two no jeopardy federal biological opinions (1-1-00-F-200 and 1-1-00-F-240) which consider the Federally and State endangered California freshwater shrimp (*Syncaris pacifica*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the County of Sonoma is requesting a determination on whether the federal biological opinions 1-1-00-F-200 and 1-1-00-F-240 are consistent with CESA.

If the Department determines that the federal biological opinions are consistent with CESA, the County of Sonoma will not be required to obtain an incidental take permit under CESA for the proposed project.

## **DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

### **CALIFORNIA REGULATORY REGISTER NOTICE ACTION DESCRIPTION FOR AN EMERGENCY RESPONSE INCIDENT, POLYCHLORINATED BIPHENYL (PCB), AND SMALL LOAD HAZARDOUS WASTE TRANSPORTATION VARIANCE ISSUED BY THE STATEWIDE COMPLIANCE DIVISION, TRANSPORTATION SECTION, FOR THE CITY OF BURBANK**

On April 10, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to the City of Burbank, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations, PCB waste transporter operations, and small load operations authorized by the California Code of Regulations, title 22, sections 66263.43, 66263.44, and 66263.46. The variance permits the grantee to transport PCB, oil, hydraulic fluids, batteries, asbestos, solvent, and other hazardous wastes to the grantee's designated central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C, and the California Code of Regulations, title 22, section 66263.46(f). The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

**California Environmental Quality Act (CEQA) Exemption.** The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's central collection facility or temporary hazardous waste storage facility is located at 124 South Lake Street, Burbank, California 91502, and 164 West Magnolia Boulevard, Burbank, California 91502. The variance expires on September 30, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.



**HOUSEHOLD HAZARDOUS WASTE UNIT  
STATE REGULATORY PROGRAMS DIVISION  
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On April 15, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a variance to the City of Los Angeles. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued for four-day mobile household hazardous waste and conditionally exempt small quantity generator waste (CESQG) collections to be conducted at:

Northridge, CSUN  
18111 Nordhoff Street, MS #8260  
Northridge, CA 91330  
April 17-20, 2002

Hollywood Presbyterian  
1760 N Grower Street  
Hollywood, CA 90028  
May 16-18, 2002

This variance authorizes the City of Los Angeles through its contractor to set up the mobile four-day collection events at the locations listed above for the specific dates and collect household and CESQG hazardous wastes. The first day is for CESQG collections only. Specific standards exempted are permit requirements contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 14, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the variance. For additional information contact Asha Arora at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3874.

**CALIFORNIA REGULATORY REGISTER  
NOTICE ACTION DESCRIPTION FOR AN  
EMERGENCY RESPONSE INCIDENT  
HAZARDOUS WASTE TRANSPORTATION  
VARIANCE ISSUED BY THE STATEWIDE  
COMPLIANCE DIVISION, TRANSPORTATION  
SECTION, FOR THE CITY OF SUNNYVALE,  
DEPARTMENT OF PUBLIC SAFETY**

On April 9, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to the City of Sunnyvale, Department of Public Safety, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations authorized by the California Code of Regulations, title 22, section 66263.43. The variance permits the grantee to transport hazardous wastes generated from emergency incident operations to the grantee's central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be

transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

**California Environmental Quality Act (CEQA)**  
**Exemption.** The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's central collection facility or temporary hazardous waste storage facility is located at 795 E. Arques Avenue, Sunnyvale, California 94086. The variance expires on February 28, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER  
NOTICE ACTION DESCRIPTION FOR A  
POLYCHLORINATED BIPHENYL (PCB) AND  
CONSOLIDATION HAZARDOUS WASTE  
TRANSPORTATION VARIANCE ISSUED BY  
THE STATEWIDE COMPLIANCE DIVISION,  
TRANSPORTATION SECTION, FOR  
SAN DIEGO GAS & ELECTRIC  
(% SEMPRA ENERGY)**

On April 9, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to San Diego Gas & Electric (% Sempra Energy), a registered transporter of hazardous waste, to conduct PCB waste transporter operations and consolidation operations authorized by the California Code of Regulations, title 22, sections 66263.44 and 66263.45. The variance permits the grantee to transport PCB and oil waste to the grantee's central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

**California Environmental Quality Act (CEQA)**  
**Exemption.** The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations,

title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's has numerous central collection facilities or temporary hazardous waste storage facilities located throughout San Diego, California. The variance expires on April 30, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER  
NOTICE ACTION DESCRIPTION FOR AN  
EMERGENCY RESPONSE INCIDENT AND  
POLYCHLORINATED BIPHENYL (PCB)  
HAZARDOUS WASTE TRANSPORTATION  
VARIANCE ISSUED BY THE STATEWIDE  
COMPLIANCE DIVISION,  
TRANSPORTATION SECTION,  
FOR THE CITY OF SANTA CLARA  
ELECTRIC DEPARTMENT**

On April 10, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to the City of Santa Clara Electric Department, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations and PCB waste transporter operations authorized by the California Code of Regulations, title 22, sections 66263.43 and 66263.44. The variance permits the grantee to transport PCB and oil waste to the grantee's central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

**California Environmental Quality Act (CEQA) Exemption.** The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's central collection facility or temporary hazardous waste storage facility is located at 1705 Martin Avenue, Santa Clara, California 95050. The variance expires on October 31, 2003. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

**CALIFORNIA REGULATORY REGISTER  
NOTICE ACTION DESCRIPTION FOR AN  
EMERGENCY RESPONSE INCIDENT,  
POLYCHLORINATED BIPHENYL (PCB), AND  
CONSOLIDATION HAZARDOUS WASTE  
TRANSPORTATION VARIANCE ISSUED BY  
THE STATEWIDE COMPLIANCE DIVISION,  
TRANSPORTATION SECTION,  
FOR TURLOCK IRRIGATION DISTRICT**

On April 9, 2002, the Department of Toxic Substances Control (DTSC) granted a transportation regulatory exemption variance to Turlock Irrigation District, a registered transporter of hazardous waste, to conduct emergency response incident transporter operations, PCB waste transporter operations, and consolidation operations authorized by the California Code of Regulations, title 22, sections 66263.43, 66263.44, and 66263.45. The variance permits the grantee to transport PCB, solvent, and other hazardous wastes to the grantee's designated central collection facility or temporary storage facility, using a shipping paper that contains all the information required pursuant to the Code of Federal Regulations, title 49, part 172, subpart C. The wastes must subsequently be transported, using a hazardous waste manifest, to an authorized hazardous waste disposal or recycling facility.

**California Environmental Quality Act (CEQA) Exemption.** The project qualifies for a CEQA exemption under Public Resources Code Section 21080(b)(1), Ministerial Projects. This variance is issued pursuant to California Code of Regulations, title 22, chapter 13, article 4, section 66263.40 et seq., (Regulatory Exemptions for Certain Transportation Operations), that allows for four specific types of transportation requirement exemptions. Applicants must meet preset regulatory standards. In applying these standards, DTSC only verifies specific facts regarding eligibility and may not add case-specific conditions.

The grantee's central collection facility or temporary hazardous waste storage facility is located at North Annex Building N-4, 901 N. Broadway, Turlock, California 95380. The variance expires on December 31, 2002. For more information please call Maria Salomon of DTSC's Transportation Section at (916) 255-3624.

# SUMMARY OF REGULATORY ACTIONS

## REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

#### Mental Illness and Developmental Disabilities

In 2000, the Legislature mandated POST to establish a voluntary course on law enforcement interaction with mentally ill and developmentally disabled persons (AB 1718, Statutes of 2000, chapter 200) on or before June 30, 2001. The legislation also requires a report to the Legislature by October 1, 2003. This rulemaking would add the topics to be covered to the existing "Minimum Standards for Legislatively-Mandated Courses" regulation.

#### Title 11

California Code of Regulations

ADOPT: 1081(a)(32)

Filed 04/25/02

Effective 05/25/02

Agency Contact: Leah Cherry (916) 227-3891

### COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

#### Basic Course Waiver and Requalification

This action modifies provisions governing POST's Basic Course requalification and waiver requirements.

#### Title 11

California Code of Regulations

AMEND: 1005, 1008

Filed 04/26/02

Effective 07/01/02

Agency Contact: Leah Cherry (916) 227-3891

### DEPARTMENT OF CORPORATIONS

#### Instructions For Independent Audit Pursuant

This is the emergency readoption of regulations that provide guidelines for the frequency of routine departmental examinations of escrow agent licensees and licensees under the California Residential Mortgage Lending Act, and standards for the conduct of an independent audit and preparation of the report concerning the audit required by section 17406 of the Financial Code.

#### Title 10

California Code of Regulations

ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5

Filed 04/29/02

Effective 04/30/02

Agency Contact: Kathy Womack (916) 322-3553

### DEPARTMENT OF HEALTH SERVICES

#### Annual Healthcare Common Procedure Coding System (HCPCS) Update

This Certificate of Compliance adopts into the Medi-Cal program the 2001 HCFA Common Procedure Coding System (HCPCS) codes and descriptors, pursuant to the Transaction Lists and 2001 HCPCS File provided by HCFA.

#### Title 22

California Code of Regulations

AMEND: 51515(c), 51515(e), 51518(b)

Filed 04/30/02

Effective 04/30/02

Agency Contact:

Jasmin Delacruz

(916) 657-0501

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

#### Community Development Block Grant Program

This regulatory action amends provisions dealing with the application for a Community Development Block Grant.

#### Title 25

California Code of Regulations

AMEND: 7060, 7062.1, 7078.2, 7078.4, 7078.5

Filed 04/26/02

Effective 04/26/02

Agency Contact: Allen Jones

(916) 327-3755

### DEPARTMENT OF INSURANCE

This readopted emergency rulemaking adopts procedures for insurance companies doing business in California to comply with the reporting requirements of the Holocaust Victim Insurance Relief Act of 1999.

#### Title 10

California Code of Regulations

ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5

Filed 05/01/02

Effective 05/01/02

Agency Contact: Leslie Tick

(415) 538-4190

### DEPARTMENT OF MANAGED HEALTH CARE

#### Electronic Filing

This is the emergency readoption of a regulation that requires plans to submit statutorily mandated documents electronically to assist the Department in speedy and accurate data retrieval and delivery of service.



Title 28  
California Code of Regulations  
ADOPT: 1300.41.8  
Filed 04/24/02  
Effective 04/24/02  
Agency Contact:  
Lyn Amor Macaraeg (916) 322-9727

**DEPARTMENT OF MOTOR VEHICLES****Cost of Information**

This emergency resubmittal increases from \$2 to \$4 the fee charged non-governmental commercial requesters for each DMV record requested electronically. This action is a resubmittal of prior OAL emergency file number 02-0318-04E.

Title 13  
California Code of Regulations  
AMEND: 350.44  
Filed 04/29/02  
Effective 04/29/02  
Agency Contact:  
Bonnie DeWatney (916) 657-8954

**DEPARTMENT OF SOCIAL SERVICES****Electronic Benefit Transfer (EPT)**

The Department of Social Services is amending and adopting the captioned sections pertaining to the Electronic Benefits Transfer Act. The provisions contained within Stats. 1997, Ch. 270, impacted the California Department of Social Services by establishing the statewide electronic benefit transfer system (EBT). Welfare and Institutions Code section 10077 provides that the initial emergency regulations and the first readoption of said regulations shall be exempt from review by the Office of Administrative Law. The instant filing is the first set of regulations, enumerated in the caption, governed by the Welfare and Institutions Code section 10077; said regulations are contained within their Manual of Policies and Procedures.

Title MPP  
California Code of Regulations  
ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, 16-801 AMEND: 20-300, 44-302,  
Filed 04/26/02  
Effective 05/01/02  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**FAIR POLITICAL PRACTICES COMMISSION****One Bank Account**

The Fair Political Practices Commission is adopting section 18520 and amending sections 18521, 18523,

and 18523.1 of title 2, California Code of Regulations, pertaining to Proposition 34—One Bank Account.

Title 2  
California Code of Regulations  
ADOPT: 18520 AMEND: 18521, 18523, 18523.1  
Filed 04/26/02  
Effective 05/26/02  
Agency Contact: John Wallace (916) 445-4812

**FISH AND GAME COMMISSION****Ocean Salmon Sport Fishing**

This rulemaking conforms the Commission's ocean sport fishing regulations for salmon in State waters to those agreed upon by the Pacific Fishery Management Council.

Title 14  
California Code of Regulations  
AMEND: 27.80  
Filed 04/29/02  
Effective 05/01/02  
Agency Contact: John M. Duffy (916) 653-4899

**INDUSTRIAL WELFARE COMMISSION****Wage Order 14-2001**

This rulemaking action adopts provisions dealing with agricultural occupations.

Title 8  
California Code of Regulations  
ADOPT: 11140 AMEND: 11140  
Filed 05/01/02  
Effective 07/01/01  
Agency Contact: Doug McConkie (916) 322-0167

**MANAGED RISK MEDICAL INSURANCE BOARD****Healthy Families Program**

This emergency action, exempt from OAL review, expands the Healthy Families Program by making parents of eligible children eligible to purchase health insurance coverage.

Title 10  
California Code of Regulations  
ADOPT: 2699.6606, 2699.6711, 2699.6631, 2699.6631, 2699.6717 AMEND: 2699.6500, 2699.6600, 2699.6605, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6623, 2699.6625, 2699.6629, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6800, 2699.6801, 2699.6809  
Filed 04/29/02  
Effective 04/29/02  
Agency Contact: Dennis Gilliam (916) 322-1250

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD****Safety Standards for Steel Erection**

These title 8 Construction Safety Orders are exempt from our APA review pursuant to Labor Code section



142.3(a)(3) and are being filed with the Secretary of State for printing in the California Code of Regulations only.

**Title 8**

California Code of Regulations

ADOPT: 1716.2 AMEND: 1632, 1635, 1671, 1709, 1710

Filed 05/01/02

Effective 05/01/02

Agency Contact: Marley Hart (916) 274-5721

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN DECEMBER 26, 2001  
TO MAY 01, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

02/22/02 AMEND: 121, Appendix A

01/08/02 AMEND: 1402, 1414, 1437

**Title 2**

04/26/02 ADOPT: 18520 AMEND: 18521, 18523, 18523.1

04/19/02 ADOPT: 18537.1

04/10/02 ADOPT: 1859.74.4 AMEND: 1859.2, 1859.20, 1859.21, 1859.30, 1859.33, 1859.40, 1859.41, 1859.42, 1859.43, 1859.50, 1859.51, 1859.60, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.74.4, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.

04/04/02 ADOPT: 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10

03/27/02 ADOPT: 59100

03/19/02 ADOPT: 599.930

03/18/02 AMEND: 599.502, 599.508

03/15/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

03/13/02 AMEND: 56800

03/07/02 ADOPT: 2351

02/19/02 ADOPT: 18450.11

02/19/02 ADOPT: 18543 REPEAL: 18543

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02/14/02 ADOPT: 18404.1 REPEAL: 18404.2

02/05/02 ADOPT: 433.1 AMEND: 433

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04/04/02 AMEND: 3033.2, 3033.3, 3033.4

04/02/02 ADOPT: 480.9 AMEND: 480.7

03/12/02 AMEND: 3423(b)

03/12/02 AMEND: 3423(b)

03/08/02 ADOPT: 306, 6188, 6780 AMEND: 6000

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01/04/02 AMEND: 3591.16 (a)

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 02/08/02 AMEND: 40407.1  
 02/08/02 AMEND: 42350.6  
 02/08/02 ADOPT: 43095 REPEAL: 43101  
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 02/27/02 AMEND: 2498.6  
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 02/19/02 ADOPT: 156.00  
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 01/18/02 AMEND: 599  
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01/24/02 REPEAL: Repeal the language "(See  
Section 3901.1, Retraining Benefits Defi-  
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